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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,981	03/11/2004	Pavel S. Veselov	SUNMP176	6846
32291 7590 11/02/2007 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			EXAMINER MITCHELL, NATHAN A	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 11/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/798,981		VESELOV ET AL.	
	Examiner		Art Unit	
	Nathan Mitchell		2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7,8,10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 3,5,6,9 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/11/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. Claims 5 and 9 are objected to because of the following informalities:
- a. In claim 5, there does not appear to be a space between claim and 1. One should be added.
 - b. Claim 9 is listed as depending on claim 1 but seems to depend on claim 7.
 - c. Line 4 page 24: "the server should be changed to -a server-.
 - d. Line 10 of page 25: "the descriptor" should be changed to -a descriptor- since it is the first mention of a descriptor in that independent claim.
- Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,092,703 B1 to Papineau in view of U.S. Patent No. 6,066,181 to DeMaster.

For **claims 1 and 2**, Papineau discloses a method for delivering a non-midlet application (abstract line 2 application can be non-midlet) to a device associated with a CDC (fig. 3 48) through an OTA MIDP protocol (fig. 3 42), comprising

- requesting the non-midlet application (fig. 1 "request")
- downloading the non-midlet application (fig. 1 "response")

For claims 1 and 2, Papineau is silent of how non-midlet applications are implemented, in particular, Papineau does not disclose an identifier being prefixed for the non-midlet application, the type of non-midlet application being determined, or the non-midlet application being managed with an interface it follows.

In an analogous art, DeMaster teaches a method of allowing non-native code to function in a native environment comprising:

prefixing an identifier for a non-native application, wherein the identifier is configured to imply a native application (figure 1, column 2 lines 50-57 jstruct/junion implement interfaces that allow non-native code to operate as if it's native)

determining a type of the non-native application (column 2 8-13 and column 2 23-25 appropriate 'prefix' is generated based on type of code)

managing the non-native application with an interface the non-native application follows (fig. 1 native code operates as designed through interface)

It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teachings of DeMaster into the invention of Papineau. One of ordinary skill in the art would have recognized the desirability of allowing non-native applications to properly run.

Claims 7 and 8 are rejected for essentially the same reason as claims 1 and 2 as it is inherent that methods of these type are implemented using computer programs.

7. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papineau in view of Demaster as applied to claim 1 and 7 above, and further in view of U.S. Patent No. 7,072,672 B2 to Vanska et al.

For **claim 4**, the invention as modified in claim 1 does not address what types of non-native applications can be run. The framework of the invention would allow practically any type of code however one of ordinary skill would recognize that in particular applications designed for mobiles would be particularly desirable. In an analogous art, Vanska et al. disclose a mobile device running an application that is a Java applet (column 3 32-34). It would have been obvious to one of ordinary skill at the art to modify the invention of claim 1 to work for non-native applications that are java applets. The motivation for doing so is to allow preexisting mobile applications to run in a midlet environment.

Claim 10 is rejected for essentially the same reason as claim 4 as it is inherent that methods of this type are implemented using computer programs.

8. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Papineau in view of DeMaster and Vanska et al.

For claim 12, Papineau et al. disclose a system configured to deliver non-Midlet application that OTA MIDP protocol (abstract line 2 application can be non-midlet, see fig. 3 42/48), comprising:

A client (figure 1 12' or 12" or 12''') in communication with a server (18) through a MIDP (fig. 3), the client configured to download the non-Midlet type application through the server (fig. 1 Request/Response), the client including an application manager (150).

For claim 12, Papineau et al. do not disclose the client further storing a description including an address and a description of executables or the application

manager configured to manage non-Midlet applications and classifying them as one of an Xlet or applet.

Papineau is silent on the operation of non-Midlet application in a midlet environment. However in an analogous art, DeMaster teaches a method of allowing non-native code to function in a native environment comprising:

prefixing an identifier for a non-native application, wherein the identifier is configured to imply a native application (figure 1, column 2 lines 50-57 jstruct/junion implement interfaces that allow non-native code to operate as if it's native)

determining a type of the non-native application (column 2 8-13 and column 2 23-25 appropriate 'prefix' is generated based on type of code)

managing the non-native application with an interface the non-native application follows (fig. 1 native code operates as designed through interface)

It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the teachings of DeMaster into the invention of Papineau by having the application manager implement the detection of non-midlet applications and appropriately interface with them. One of ordinary skill in the art would have recognized the desirability of allowing non-native applications to properly run.

Papineau further disclose a descriptor being stored along with midlets wherein an address associated with the application is stored (Table 1 Midlet-Jar-URL) and wherein a description of the executables is given (Table 1 e.g. Midlet-Version). It would have been obvious to one of ordinary skill in the art at the time of invention that a similar provision could be made for non-midlet applications in the application manager. The

motivation for making the change is to have that information available in the application manager.

The invention as modified does not disclose the type of application being xlet or applet. The framework of the invention would allow practically any type of code however one of ordinary skill would recognize that in particular applications designed for mobiles would be particularly desirable. In an analogous art, Vanska et al. disclose a mobile device running an application that is a Java applet (column 3 32-34). It would have been obvious to one of ordinary skill at the art to modify the invention of claim 1 to work for non-native applications by having the application manager detect applets. The motivation for doing so is to allow preexisting mobile applications to run in a midlet environment.

Regarding **claim 13**, Papineau discloses the client communicating with the server through a distributed network through one of a wired connection and a wireless connection (fig. 1 wireless connection to wireless gateway)

Regarding **claim 14**, Papineau further discloses the client supporting a CDC (fig. 3 48)

Regarding **claim 15**, Papineau further discloses that the client can be a pager (12'''), a PDA (12'') or a cellular phone (12').

Allowable Subject Matter

9. Claims 16-20 allowed. The prior art does not teach or suggest non-Midlet applications being identified by an application manager through an examination of class data. Claims 3, 5, 6, 9 and 11 objected to as being dependent upon a rejected base

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claim, but would be allowable if formalities objections are overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art does not teach those features in a combinable way with Papineau, Demaster or Vanska.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Document Number Country Code- Number-Kind Code	Date MM- YYYY	Name	Classification
US-2002/0122055 A1	09-2002	Parupudi et al.	345/737
US-6,473,759 B1	10-2002	Herrendoerfer et al.	707/10
US-2003/0084165 A1	05-2003	Kjellberg et al.	709/227
US-2003/0196189 A1	10-2003	Wang et al.	717/124
US-2004/0034853 A1	02-2004	Gibbons et al.	717/174
US-2004/0267804 A1	12-2004	Fresko et al.	707/102
US-2005/0088983 A1	04-2005	Wesslen et al.	370/313
US-7,079,839 B1	07-2006	Papineau, Scott	455/418

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mitchell whose telephone number is (571)270-3117. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Mitchell

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